

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MARSHALL O'DAL WILSON,	)	Case No. C07-1273-RSL-JPD
	)	
Plaintiff,	)	
	)	
v.	)	
	)	ORDER DENYING PLAINTIFF'S
SANDRA COURTWAY, et al.,	)	MOTION TO APPOINT COUNSEL
	)	
Defendants.	)	
_____	)	

Plaintiff Marshall O'Dal Wilson, a state inmate, is proceeding *pro se* and *in forma pauperis* in this 42 U.S.C. § 1983 civil rights suit against employees of King County and the King County Jail. Dkt. No. 8. The present matter comes before the Court on plaintiff's motion for court-appointed counsel. Dkt. No. 21. After careful consideration of the motion, the governing law and the balance of the record, the Court ORDERS as follows:

(1) Plaintiff's motion for appointment of counsel (Dkt. No. 21) is DENIED. No constitutional right to counsel exists for an indigent plaintiff in a civil case unless the plaintiff may lose his physical liberty if he loses the litigation. *See Lassiter v. Dep't of Social Servs.*, 452 U.S. 18, 25 (1981). However, pursuant to 28 U.S.C. § 1915(e)(1), this Court has the discretion to appoint counsel for indigent litigants proceeding IFP. *United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995). The Court will appoint counsel only on a showing of "exceptional circumstances." *Id.*; *Wilborn v. Escalderon*, 789

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01 F.2d 1328, 1331 (9th Cir. 1986). “A finding of exceptional circumstances requires an  
02 evaluation of both the likelihood of success on the merits and the ability of the plaintiff to  
03 articulate his claims *pro se* in light of the complexity of the legal issues involved.” *Wilborn*,  
04 789 F.2d at 1331 (internal quotations omitted). These factors must be viewed together before  
05 reaching a decision on a request for counsel under § 1915(e)(1). *Id.*

06 The Court finds that the plaintiff has failed to demonstrate that exceptional  
07 circumstances warrant the appointment of counsel at this time. Petitioner has provided no  
08 evidence that his case is likely to succeed on the merits. To the contrary, by separate order,  
09 this Court has recommended that plaintiff’s Amended Complaint be dismissed as to one  
10 defendant in the case because it fails to state a claim upon which relief can be granted. *See*  
11 Dkt. No. 24. Furthermore, although plaintiff has alleged that conducting discovery in this  
12 litigation will be difficult for him, “the need for such discovery does not necessarily qualify the  
13 issues involved as ‘complex.’” *Wilborn*, 789 F.2d at 1331.

14 In sum, plaintiff has neither demonstrated a likelihood of success on the merits nor  
15 shown that, in light of the complexity of the legal issues involved, he is unable to articulate his  
16 claims *pro se*. Accordingly, the Court concludes that appointment of counsel is not  
17 appropriate at this time. The Court may revisit this decision as the case progresses, and the  
18 plaintiff will be free to move the Court for appointment of counsel if necessary at a later date.

19 (2) The Clerk of Court shall send copies of this Order to plaintiff and to the  
20 Honorable Robert S. Lasnik, Chief Judge.

21 DATED this 5th day of February, 2008.

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23   
24 JAMES P. DONOHUE  
25 United States Magistrate Judge  
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